

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO. 1502 OF 2004

Deepak N. Dhimar & ors. ... Petitioners

versus

Manilal Devji Shah & anr. ... Respondents

...

Mr. Niranjana Mundargi, for the Petitioners.

Mr. Shailesh Kantharia, for Respondent No. 1.

Mr. S.R. Shinde, A.P.P., for Respondent No.2.

...

CORAM : A.M.KHANWILKAR, J.

28th October 2004

P.C.:

. Heard Counsel for the parties. Rule.
Rule made returnable forthwith by consent. Mr.
Shailesh Kantharia waives notice for Respondent
No. 1. Mr. Shinde, A.P.P., waives notice for
Respondent No. 2. As short question is
involved, petition is taken up for final disposal
forthwith by consent.

. Respondent No. 1 filed complaint under

section 78 and 79 of the Trade and Merchandise Marks Act, 1958 read with section 63 of the Copyrights Act, 1957, against the Petitioners. The Magistrate sent the matter for investigation under section 156(3) of the Code. After investigation, police report was submitted on the basis of which process was issued. However, both sides have now amicably settled all their disputes. In that view of the matter, a joint application was preferred before the Court below that the parties be allowed to compound the offence and the criminal action be closed. The Court below has observed that the offence is not compoundable for which reason the application has been rejected. To my mind, no fault can be found with the said opinion expressed by the Court below. However, as the matter has been amicably resolved between the parties and there are no pending grievances against each other, coupled with the fact that the complainant is unwilling to pursue the criminal action against the Petitioners, no fruitful purpose would be served by proceeding with the inquiry. In the interest of justice, therefore, the appropriate course is to allow this application in terms of prayer clause (a-1) as amended, which reads thus :

" that this Hon'ble Court be pleased to issue writ of Mandamus or any other Order in the nature of Writ of Mandamus or any other appropriate writ or order and quash the proceedings in C.C.No. 776/P/2003 (Old C.C. No. 282/P/2003 pending as against the Petitioner on the file of the Ld. Metropolitan Magistrate, 2nd Court, Mazgaon, Mumbai."

Ordered accordingly.

. Parties to act on the authenticated copy of this order.

(A.M.KHANWILKAR, J.)